

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

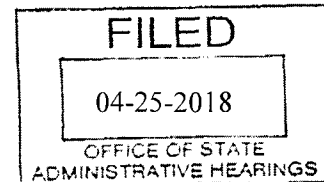
RHONDA LEAH BARRON,
Petitioner,

v.

DALE ROBERT BUSBEE,
Respondent.

Docket No.: 1836005
1836005-OSAH-SECSTATE-CE-16-Teate

Agency Reference No.: 1836005



INITIAL DECISION

I. Introduction

Pursuant to O.C.G.A. § 21-2-5(b), Challenger/Petitioner (hereinafter “Petitioner”) challenges Respondent’s qualifications to be a candidate for the Georgia State House in District 160. The undersigned held a hearing in this matter on April 24, 2018. Petitioner failed to appear. For the reasons indicated below, the Administrative Law Judge rejects Petitioner’s challenge and determines that Respondent **is qualified** to be a candidate for State House.

II. Findings of Fact

1. Respondent is a citizen of the United States of America who is at least twenty five years old. He has been a citizen of the State of Georgia for at least two years, and a resident of House District 160 for at least one year. (Testimony of Dale Busbee).
2. Respondent has paid the qualifying fee and filled out the necessary forms to run for State House. (Testimony of Dale Busbee).
3. In a Financial Disclosure Statement filed as a candidate for Public Office, Respondent disclosed a tax obligation to the Internal Revenue Service (IRS) in the amount of \$3,162.41. Respondent makes routine payments for that tax obligation per the terms of an agreement with

the IRS. Currently, the tax obligation remains approximately \$3,003.00 including interest and any penalties assessed by the IRS. (Testimony of Dale Busbee).

4. Petitioner filed the complaint that initiated this hearing on the basis of Respondent's tax obligation to the IRS as disclosed on his Financial Disclosure Statement. Although Petitioner alleged that she was a qualified voter, she did not appear at the hearing. Alternatively, there is no admissible documentation supporting a conclusion that Petitioner is a qualified voter. (Petitioner request for hearing).

III. Conclusions of Law

1. Every candidate for state office who files a notice of candidacy shall meet all the constitutional and statutory requirements for holding the office sought by that candidate. O.C.G.A. § 21-2-5(a).

2. The Georgia Supreme Court has placed the affirmative obligation on the candidate to establish his qualification for office. Therefore, the entire burden is placed upon the candidate to affirmatively establish his eligibility for office. *Haynes v. Wells*, 273 Ga. 106, 108–09 (2000).

3. At the time of their election, members of the House shall be citizens of the United States, shall be at least 25 years of age, shall have been citizens of this state for at least two years, and shall have been legal residents of the territory embraced within the district from which elected for at least one year. Ga. Const. Art. III, § II, Para. III(b); *see also* O.C.G.A. § 28-2-1. Additionally, candidates cannot be on active duty with any branch of the armed forces or hold a civil appointment or office having emolument¹ annexed thereto. Ga. Const. Art. III, § II, Para. IV.

4. Pursuant to Code Section 21-2-5(b), either the Secretary of State or a qualified elector residing in a state legislative district may challenge a candidate's qualifications to hold office.

¹ Black's Law Dictionary defines "emolument" as an "advantage, profit or gain received."

Petitioner brings such a challenge, asserting that Respondent's unpaid federal taxes as reported in his Financial Disclosure Statement may disqualify him from running for Georgia State House District 160. Elector is defined as "any person who shall possess all of the qualifications for voting now or hereafter prescribed by the laws of this state, including applicable charter provisions, and shall have registered in accordance with this chapter." O.C.G.A. § 21-2-2(7). "'Voter' is synonymous with the term 'elector.'" O.C.G.A. § 21-2-2(39). Inasmuch as Petitioner failed to appear, there is no admissible evidence supporting a conclusion that she is a qualified elector.

5. A defaulter of any federal, state, county, municipal or school system taxes required of such officeholder or candidate shall be ineligible to hold any office in Georgia unless such ineligibility has been removed at any time by full payment, or by making payments to the tax authority pursuant to a payment plan. Ga. Const. Art. II, § II, Para. III. Inasmuch as Respondent has a payment plan with the IRS, Respondent's ineligibility is removed.

IV. Decision

Based upon the above Findings of Fact and Conclusions of Law, Respondent is qualified to be a candidate for State House District 160.

SO ORDERED, this 25th day of April, 2018.


Steven W. Teate
Administrative Law Judge

